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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,508	12/27/2000	Yoichi Kihara		6942

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JAPAN

EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,508

Applicant(s)

KIHARA, YOICHI

Examiner

Lalita M Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Oath/Declaration

The Oath/Declaration is objected to, because it does not identify the citizenship of each inventor.

Specification

The abstract of the disclosure is objected to because the use of the terms "means", "such as", and "the like" is improper. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: The disclosure is replete with typographical and grammatical errors. The Examiner respectfully requests that the Applicant go through the disclosure and correct these errors. For example, on p.1, 3rd paragraph, "real agent" should be "realty agent" and on p.3, line 15, "reaches" should be "reach". These are **only** a couple of examples of the errors that should be corrected.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim is narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the system must be clearly

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and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative system. The claim must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 is rejected, because the following terms lack sufficient antecedent basis in the claim: service, parties, agreement, services, house, financial burden, used house, information, Internet, potential sellers, potential buyers, selling conditions, and procedures.

In claim 1, "used house" has been cited in the preamble, but it has not been positively recited in the body of the claim.

Regarding claim 1, the phrase "the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In claim 1, there is improper listing of the claim limitations in a group. For example, instead of "such as...", "selecting from the group consisting of..." may be substituted.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, *or* composition of matter, *or* any new and useful improvement thereof" (emphasis added).

Claim 1 is rejected under 35 U.S.C. § 101 because; the claimed invention is directed to a non-statutory subject matter. Specifically the system claim as presented does not claim a technological basis in the pre-amble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a system claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

In order to over come the 101 rejection above, the following preamble is suggested:
"A computer implemented system for ---", or something similar. Also, in the body of the claim include structural / functional interrelationship which can only be computer implemented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ketterer (US 2002/0052814).

Ketterer discloses a virtual brokerage system comprising trading used houses at low cost without paying brokerage fee to realty agent, wherein a seller and a buyer of a used house meet directly for negotiation without asking the service of any realty agent (p.2, 11-12); upon reaching an agreement on transaction, the parties to the agreement designate, upon mutual agreement, an agent (p.3, 35 to p.4, 46-SSREB) who undertakes for the parties documentary procedure, legal procedure and security maintenance procedure comprehensively covering the services; both the seller and the buyer are free to contact with each other in any form, and the agent shall not intervene in the transaction or the used house before the seller and the buyer reach an agreement on the transaction (p.9, 185-186-seller and buyer negotiated and have the option of using SSREB); the agent provides a home page of free access exclusively for the information concerning the used houses as a meeting place of the sellers and the buyers at a web site of the Internet (p.4, 49 and p.5, 88—not charged until sale is verified); each of the potential sellers of the used houses put up on the home page the information about the house while each of the potential buyers of the used house put up on the home page the information and conditions about desired buying price, location, and dimensions (p.5, 56-86 and p.6, 95 to p.7, 138); and each buyer contacts directly with each potential seller for negotiation, when the seller and the buyer have reached an

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agreement on the selling conditions and buying conditions, either the seller or the buyer or the both entrust the procedures relating to the trading contract, maintenance and security maintenance to the agent, provided that when both the seller and the buyer do not need to entrust such procedures to the agent, the both are not obligated to pay any agent fee to the agent and the agent is entitled to charge its agent fee to the seller and the buyer only when said procedures are entrusted to the agent (p.4, 49 and p.9, 185-188-charged when sale is confirmed).

Provisional Application Listed on PTO-892 form

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fraser (5,664,115) teaches an interactive computer system to match buyers and sellers of real estate, business, and other property using the Internet. Broerman (6,594,633) teaches a real estate computer network to facilitate transactions between buyers and sellers.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

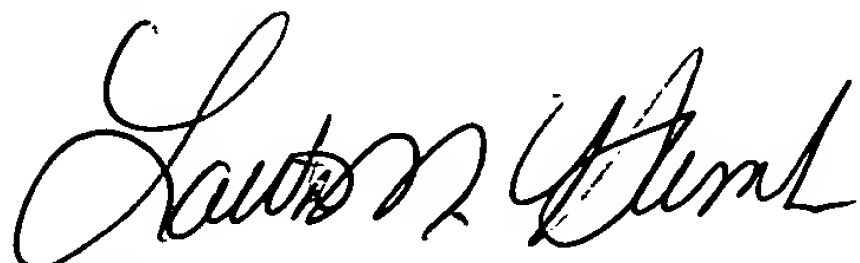
Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH